

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
LPTV, TV Translator, and FM Broadcast Stations)	MB Docket No. 18-214
Reimbursement)	
)	GN Docket No. 12-268
Expanding the Economic and Innovation)	
Opportunities of Spectrum through Incentive)	
Auctions)	
To: The Commission		

COMMENTS OF THE NATIONAL TRANSLATOR ASSOCIATION

INTRODUCTION

The National Translator Association (NTA) recommends a “Fast Track” approach to streamline reimbursement applications for stations already constructed and new applications, with a general limit on each station’s cost of no more than \$31,000.00. With such a limit, many administrative practices can be simplified, acknowledging that market prices for re-fitting are competitive, and the applications are being made from licensees of good character. The primary purpose of the Fast Track approach is to provide uninterrupted free television service to the existing viewers to the greatest extent possible.

NTA is a non-profit membership and advocacy organization, dedicated to assuring the delivery of free over-the-air television to every household in the United States.

Translators serve a vital role in all regions of the country and NTA has membership in all regions, but with a concentration of members in the states of the Inter-Mountain West and the

Pacific Coast, where terrain and historical factors have led to extensive use of TV translators to deliver television signals to isolated rural areas – an essential delivery mechanism that continues to this day.

THE OBJECTIVE

NTA's paramount concern is in the preservation of TV translator delivery of free over-the-air television signals, especially to homes that may have no alternate source and stand to lose all television service if TV translator service is impaired or terminated. While not our primary concern, we also believe that Low Power Television, a service that was grafted onto TV translators in 1982, is a dynamic means of delivery for new and original program streams; has an important role in urban and especially in small, isolated communities in rural areas; and that measures to protect this service, too, should be given priority.

Our members grew out of a tradition of public service, and that spirit prevails down to the present. Many TV translator licensees are entities of state and local government. We ask the Commission, in reviewing our comments here, to bear in mind that we speak for these service providers. But even more, we speak for those members of the public who are dependent on TV translators for any television service. Surely, those individuals have no other advocate, and their voices need to be heard.

With respect to the pending reimbursement item (“NPRM”) the NTA proposes a Fast-Track procedure to process requests for reimbursement of expenses associated with LPTV/TV translator channel changes required by the repacking of the television band. Fast-Track would be

an option for licensees willing to accept a strict dollar cap on their station submission, but would not be required of anyone.

The NPRM invited commenting parties to advance strategies that will promote efficiency and fairness.

We invite comment generally on whether and how the process might be further streamlined in light of the fact that the money available to reimburse LPTV/translator and FM stations is less than that allocated to full power, Class A, and MVPD entities, individual entity expenses may also be expected to be smaller, and many of the stations seeking reimbursement may already have incurred the costs associated with the transition

(LPTV/TV Translator and FM Broadcast Station Reimbursement, MB Docket No 18-214, Para 73.)

We believe that our proposal is responsive to that request.

SUMMARY OF THE FAST-TRACK PROPOSAL

Initially, an LPTV/TV translator station would file a Statement or Form advising the Commission that the station opts for fast-track treatment of its reimbursement costs. By exercising this option, the station agrees to limit its reimbursement costs to no more than \$31,000.00 of expenses per station and would receive 100% of its reimbursable costs, once these are fully documented with paid invoices substantiating the claim. The licensee would not submit preliminary proposals or estimates of its costs, thereby reducing the time and expense in application processing. This process will accommodate those stations who have already been displaced and who have already bought equipment to repack and continue to serve their public on new frequencies and are repacked and should not be penalized for buying the most prudent equipment necessary.

The Commission will still get a good estimate of program total costs by knowing the number of stations agreeing to proceed under the dollar limit. When construction is completed and invoices paid, the station would submit a one-page form, fully supported by paid receipts that will total not more than \$31,000.00. This is the amount that NTA estimates will cover most translator stations that have to change channels.

STAYING WITHIN THE BUDGET

NTA does not address the process announced in the NPRM that would apply to applicants not adopting the Fast Track approach. The Commission had envisioned that stations would, during phase one of the process, would first establish that they had broadcast during the requisite period and for the requisite amount of time. Then, all stations would determine the equipment required to affect the channel change, contact equipment manufacturers and service suppliers for written estimates, and submit those estimates for Commission review. This procedure was designed to enable the Commission to determine approximately the total projected cost of the reimbursements, in comparison with the amounts allocated by Congress.

NTA submits that this process, developed out of a concern that the dedicated funding from Congress might be insufficient, need not apply. As the NPRM indicates, some 2,159 applications were made to change frequency during the window, and an additional 340 pre-window filings are deemed eligible, for a total of 2,499. At \$31,000 apiece, this would total \$77,469,000 or a little over half of the \$150 million set aside. NTA estimates that up to 2,000 TV translator and low power stations will be reimbursed from the repack fund, and likely the majority would specify a total expense below the \$31,000.00 proposed cap. It would appear that

the overall cost estimates will be far below the FY 2018 allowance of \$150,000.000 set aside for LPTV/TV translator reimbursement.

If this is right, the Commission will have no need to secure estimates in order to ration funds, or to make funds available in tranches. Fast Track stations, limited to a maximum of \$31,000.00, would leave undisturbed significant funds for all non-fast-track stations that can justify higher reimbursement, and the Commission could devote its resources and the additional appropriated funds to applications making the plenary showings.

NTA did extensive consultations with stations, equipment suppliers, engineers, attorneys, and installation contractors to develop cost estimates of repack expenses to be incurred by the stations. Ultimately, those estimates were submitted to Congress, which relied on them in part in drafting the legislation leading to allocation of \$150,000,000.00 for reimbursement of the stations. Our proposed cap will cover most TV translator stations and most of the operating LPTV stations.

APPLICATION PROCESS ISSUES

A simplified application process will reduce administrative costs, make it easier for licensees to file the appropriate application for reimbursement, encourage transparent applications, and speed reimbursements -- all of this minimizing disruption to vital services, especially in rural areas. Fast Track applicants certify that they have not been reimbursed by any other source, such as T-Mobile.

FCC Form 2100, Schedule 399 can be modified to include a check box for stations opting to use the fast track. Other compliance issues can be met with a series of detailed checked-block certifications. Those stations that have already purchased eligible equipment could also submit

paid receipts at the first filing and receive prompt payment. Those stations that have not yet purchased the equipment can advise the Commission that they are using the fast track and submit paid receipts on completion of repack construction, without waiting for the Commission to estimate the percentage payouts for non-fast-track applicants. NTA research indicates that there is little difference in price on competitive bids for this scale of equipment and we should rely on the applicant's knowledge of what is required at a site.

The Commission may elect to require each station to use a check box system to certify that the choice was made to replace "orphan" equipment where the original maker was no longer in business, old equipment out of warranty, or to reflect output power changes, and that they compared prices prior to making the buying decision. NTA notes that with the fast change of communications, including broadcast broadband, new technology makes equipment out-of-date and parts no longer available faster than ever before.

LICENSED AND TRANSMITTING

At paragraph 28, the Commission addresses the requirement in the Reimbursement Expansion Act (REA) that stations must be "licensed and transmitting for at least 9 of the 12 months prior to April 13, 2017" to be eligible for reimbursement. After noting that the Commission rules do not have a definition for "transmitting," the Commission concludes that LPTV/TV translator stations must meet the minimum operating requirements for full-service stations. NTA agrees that a proof of existing operational status is essential. However, translator stations especially are at the mercy of the full-service stations they rebroadcast. In the event that the originating station did not broadcast to meet the requirement, and the translator was

functional without an input signal, it should be sufficient for a TV translator or LPTV station acting as a translator to certify either that it met the full-service requirements or, in the case its primary full-service station did not meet the minimum requirements, yet complied with the rules (i.e., was silent with permission) the translator should be deemed similarly to have complied even if the originating station did not.

STATE GOVERNMENT GRANTS

At paragraph 45 the NPRM, in furtherance of the principle that stations should not be reimbursed twice for the same equipment, states that a station is not eligible for reimbursement if it receives a state government grant to purchase the equipment. The Commission should clarify this statement to exempt state or municipal government-owned translators where the reimbursed funds will be returned to the governmental entity. Congress did not intend to penalize states and local governments that maintain translators, or put differently, translator owners were intended to be reimbursed and no differentiation was made by Congress between owners. Congress did seek to prohibit duplicative payments, but not payments that would reimburse state and local governments.

REIMBURSEMENT OF COSTS REASONABLY INCURRED

The Commission concludes that costs eligible for reimbursement are those costs necessary to construct the authorized facilities. Here the proposal appears to reflect a concern that the funds will be insufficient, and so the new guidelines might require the re-use of existing equipment (paragraph 43), even if it is old and out of factory warranty. The proposed guidelines would not provide for interim facilities (paragraph 44) where those were necessitated, for

example, by more than one external imposition on channel selection. The proposed guidelines would not reimburse engineering expenses in devising solutions to mutually exclusive cases (paragraph 46). The guidelines would require applicants to have pursued alternate sources (para. 49). None of this should be required of an applicant proposing Fast-Track and capping expenses at \$31,000. Many of the repacked licensees have already done their best to comply with repacking by spending their money based on their budget. We rely on their prudent judgment to know what is best for their station, replacing only what they think is necessary to continue to serve their market and meet the requirements of their new construction permit while continuing broadcast service.

The cap itself is an assurance that funds are well spent. An applicant should be free to utilize fast track and still apply for funds for more than one necessitated change, if the grand total falls within the limit. NTA notes that most of the low power translator equipment suppliers are competitively priced for the size of the equipment and the limited resources of most translator licensees. In light of this, the Commission can speed processing and let the competitive market provide cost control.¹

Continued service to the communities served for the immediate future requires acceptance that the licensee is in the best position to determine how to judiciously plan for the

¹ . Fast Track reimbursements might be categorically restricted to these general areas: Transmitters, Amplifiers, Modulators and Transcoders, Combiners, Mask Filters, Antennas, Input Channel Facilities, Tower Modifications, Channel Receivers, and Receive Channel Filters. The equipment choice should be that of the licensee. If there is a concern about lack of uniform standards in services, reimbursements might be capped by category: Construction Crew, Spectrum Engineering, and Legal and Filing.

future. Many may be filing at or below \$15,000. NTA expects stations with newer equipment that can change to operate on the new channel will simply change channels. A Fast Track check box may be implemented to show: Older equipment designed for high band or a specific frequency may not operate on the new channel. Some transmitters may not make enough power to operate on the new authorization. Others are “orphans” with no source for parts to move forward on new channels. Others are not designed to work at new elevations. Antennas may be cut for only one channel. Older transmitters may be “worn out”, not be efficient to meet the new technical requirements for adjacent channel operations. Many stations are unique for their location.

Proposals should not be scrutinized to allow for replication only, without service improvements. For example, a station forced to move, and choosing increased output power to reach all of its existing viewers, should not be restricted to its previous transmitter output power when it needs to select a new transmitter. More up to date equipment may have enhanced functionality, and may be selected with reserve power to assure reliability in isolated mountain locations and the cost difference is small. With any Fast-Track selection and cap of \$31,000.00, reasonable design matters should be left to the discretion of the applicant.

TV translators are unique in that they depend for their operation on both an output and an input channel. There could be an occasion in which a translator must seek authorization for and construct changed or added facilities, such as microwave facilities, or new IP or satellite delivery, in order to receive the input signal. Costs reasonably incurred should therefore include both costs necessary to construct the authorized transmission facilities and the costs necessary to continue to receive the input signal. If those or any other costs would result in a station's

exceeding the \$31,000.00 Fast-Track limit, such a station would need to accept the strict cap, or opt out of fast track and make the plenary showings.

CONCLUSION


Adoption of the Fast-Track procedure proposed herein will significantly decrease the time necessary to reimburse stations for the cost of changing channels as a result of the repacking process, conserving significant Commission resources and assisting the continued availability of television in rural areas, while not adversely affecting those stations that have significant and complex problems.

Respectfully submitted,

NATIONAL TRANSLATOR ASSOCIATION



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